United Nations A/58/617

General Assembly

Distr.: General
3 December 2003

Original: English

Fifty-eighth session
Agenda item 117 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the Secretary-General on Khmer Rouge trials*

Summary

The Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea has been signed by both parties and is awaiting ratification through the Cambodian legislative process. In the meantime, a United Nations technical team will visit Cambodia to prepare a draft concept of operation, gather more precise cost parameters for an overall budget for the Chambers and ascertain availability of facilities and utilities.

The General Assembly is requested to take note of the present interim report. A more substantive report will be submitted on the basis of the findings of the technical team.

* The present interim report is being submitted pending the visit of an assessment team to Phnom Penh, which had to be deferred from November to December 2003.

03-64025 (E) 051203

I. Introduction

1. By its resolution 57/228 B, of 13 May 2003, the General Assembly approved the draft Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea and urged the Secretary-General and the Government of Cambodia to take all measures necessary to allow the agreement to enter into force and to implement it fully thereafter. The General Assembly further decided that the expenses of the Extraordinary Chambers to be defrayed by the United Nations in accordance with the relevant provisions of the draft agreement should be borne by voluntary contributions from the international community. The Assembly requested me to report to it at its fifty-eighth session on the implementation of the resolution.

II. Ratification process

2. The agreement between the United Nations and the Government of Cambodia was signed in Phnom Penh on 6 June 2003 by Senior Minister Sok An on behalf of the Government of Cambodia and by the Legal Counsel on behalf of the United Nations.

3. In accordance with article 30 of the agreement, it now needs to be ratified by the relevant constitutional authorities of Cambodia. Under that same article, the Government of Cambodia has undertaken to make its best endeavours to obtain such ratification by the earliest possible date.[1]

4. On 27 July 2003, Cambodia held general elections to constitute a new National Assembly. While the Cambodian People's Party received a majority of votes, it did not win enough seats in the Assembly to form a one-party government. At the time of writing, negotiations are under way between the three main parties to form a coalition government, however, to date, the normal legislative process has not resumed. Under the circumstances, it is not possible to foresee at which time the bill seeking the ratification of the agreement will be presented to the National Assembly.

III. Technical assessment visit

5. Preparations continue within the Secretariat to secure and organize the assistance that the United Nations is to provide to the Government of Cambodia under the terms of the agreement. To that end, a coordinator has been appointed. His first task has been to prepare the visit of a five-member technical assessment team to Phnom Penh. The team will gather the necessary information for formulating a concept of operations for the Extraordinary Chambers and their related institutions and will develop planning parameters for an overall budget, which are to serve as a base for an appeal to donors. It will also, inter alia: view premises proposed by the Government for the Extraordinary Chambers and their related institutions; identify utilities, facilities and services to be provided by the Government, as foreseen in article 14 of the agreement; identify the costs for utilities and services that are to be borne by the United Nations pursuant to article 17 (b) of the agreement; identify the safety and security arrangements that are to be the responsibility of the United Nations pursuant to article 17 (e) of the agreement; and identify such other

assistance as the United Nations may need to provide pursuant to article 17 (f) of the agreement in order to ensure the smooth functioning of the investigation, the prosecution and the Extraordinary Chambers. Thus far, voluntary funding sufficient only for the visit has been secured.

6. By means of a letter dated 8 October 2003, it was proposed to the Government of Cambodia that the assessment visit should take place during the second week of November 2003. By a letter dated 28 October 2003, the Government advised the Secretariat that, owing to scheduling difficulties, it considered it to be preferable that the visit should take place after 7 December 2003. Accordingly, the team is now making arrangements to carry out its visit from 8 to 13 December 2003.

7. After the return of the assessment team, I will submit a further and more detailed report to the General Assembly. I will ask Member States to suggest names of possible candidates for nomination to the Government of Cambodia for appointment as international co-prosecutor, international co-investigating judge and international judges. I will also launch an appeal to Member States inviting them to make voluntary contributions to the trust fund that has been established to finance United Nations support to the Extraordinary Chambers. As pointed out earlier, the process of setting up the Chambers can only be initiated once sufficient money is in place to fund the staffing and the operations for a sustained period of time. I would consider that condition to be met when pledges for the full three years of operation of the Chambers as well as actual contributions for its first year of operations have been received.

IV. Conclusion

8. I am very concerned by the delays in the implementation of the agreement and call upon the Government of Cambodia to ensure that its ratification is placed on the agenda of the newly constituted National Assembly as a matter of priority. In the meantime, I also appeal to the Government of Cambodia, in close collaboration with the United Nations and the donor community, to complete the necessary conceptual planning and preparatory work for the operation of the Extraordinary Chambers and their related institutions. I note in this connection that it is imperative that the Office of Administration, the Prosecutors' Office and the co-investigating judges become operational as soon as possible after the agreement enters into force.

Notes

[1] Article 32 of the agreement provides that, following its approval by the General Assembly and its ratification by the relevant constitutional authorities of Cambodia, the agreement will enter into force once both parties have notified each other in writing that the legal requirements for entry into force have been complied with.